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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-third (extraordinary) session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 21 August 2000, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of the Sudan

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of the Sudan (E/1990/5/Add.41; E/C.12/Q/SUD/1; HR/CESCR/NONE/2000/10; HRI/CORE/1/Add.99/Rev.1)

1. At the invitation of the Chairperson, Mr. Gadour, Mr. Ibrahim, Ms. Imam, Mr. Siddig, Mr. Talib and Mr. Yassir (Sudan) took places at the Committee table.

2. Mr. SIDDIG (Sudan) said that, since the drafting of its initial report, the Sudan's legislative and political structure had undergone modification, with the adoption of a new Constitution in 1998. The Government had originally requested that the consideration of its report should be deferred, as it had hoped to collect updated and more comprehensive information, but at the Committee's request it had agreed to submit its report at the current session.

3. Over the past 10 years the country had undergone significant agricultural and industrial development, with substantial improvements in such infrastructure as the road system, telecommunications network and electric power grid. Oil exports had commenced in 1999. Education, water supply, health services, employment and sanitation services had developed hand in hand with economic growth fuelled by foreign direct investment, joint ventures and government-subsidized programmes. Bank loans and subsidies had been provided to the poor, women and other disadvantaged segments of the population. Women controlled 70 per cent of cottage industries in rural areas, and local banks had begun issuing loans to support the development of small farms and small-scale meat production. There were women representatives in the National Assembly, and women had accounted for 26.5 per cent of the workforce in 1993.

4. Basic education was compulsory and free. In the past decade, special emphasis had been placed on educating girls and displaced children. There were nearly twice as many teachers as 10 years earlier. The number of secondary schools, both academic and technical, had more than doubled, as had enrolment, and increases in the number of girls had outpaced increases in the number of boys. Because of decentralization, since 1994 certain states had encountered problems in funding education, but the federal Government provided them with assistance to make up for shortfalls. In 1997 the United Nations Educational, Scientific and Cultural Organization (UNESCO) had rated the Sudanese educational system among the 10 best in Africa. The number of women in higher education had risen by about a fifth between 1995 and 1998, and overall the number of students had increased eightfold since 1989.

5. Contraceptive use had increased by about half since 1990, and the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA) were assisting in the eradication of traditional practices harmful to women and girls. Together with the World Health Organization (WHO), those agencies had provided training for some 2,400 midwives and health visitors for rural areas.

6. The Government reported regularly on its implementation of international labour conventions. Freedom of association was guaranteed. Under the Public Services Act of 1994, workers were ensured adequate health care, a healthy working environment, equal pay for equal work, weekly breaks, holidays, wage increases and training. In January 2000 the minimum monthly wage had been increased to 6,000 dinars.

7. The Government had established a number of bodies to deal with issues related to women and children. A massive HIV/AIDS prevention campaign had been launched with the assistance of UNICEF and WHO. Various measures had been taken to combat the disease and assist infected persons and their families. No cases of discrimination against HIV/AIDS patients had been reported.

8. The military strife in southern Sudan had continued since 1983 owing to the intransigence of the rebel movement and foreign meddling in the country's internal affairs. In order to ensure that people in the south were provided with adequate food, the Government had launched an unprecedented operation in cooperation with the United Nations to feed people in the combat zones. Operation Lifeline Sudan thus provided some 10,000 tonnes of grain annually, the vast majority of which was distributed in rebel-held areas.

9. A representative of a non-governmental organization (NGO) had blamed the Government for obstructing relief operations in the south, but it was the rebel movement that burned grain and farms and compelled citizens to move to areas under its control in order to attract foreign relief assistance. The Government had repeatedly declared unilateral ceasefires to enable assistance to reach the needy. In May 2000 the rebel movement had applied such stringent restrictions on NGOs working in the south that 12 had decided to cease operations in the area. Staff of the International Committee of the Red Cross had been murdered. The rebel movement had been denounced by the United Nations Secretary-General for diverting relief assistance, and in 1998 had expelled 100,000 starving people from Bahr-el-Ghazal to government-held areas.

10. The Government's capacity to ensure the realization of the rights guaranteed by the Covenant had been seriously impaired by the military conflict in the south and east. It was actively seeking to negotiate an end to the conflict. The Government had also encountered difficulties because of a severe reduction in development assistance and because of natural disasters. In some cases, it was completely unable to meet its obligations. The bombing by the United States of a pharmaceutical plant in 1998 had resulted in critical shortages of life-saving drugs and veterinary medicines. Replacements had to be imported from abroad at great expense.

11. Mr. SADI expressed his appreciation to the Government for agreeing to present its initial report at the current session. It was fitting in the prevailing context that the State party should take such an opportunity to explain the human rights situation in the country. It would be of interest to the Committee to find out whether the conditions necessary for the observance of

human rights existed in the country. In view of recent developments, the Committee would like to learn whether the quality of democracy in the Sudan was commensurate with international standards, including those set forth in the Covenant. What assurances could the delegation provide in that regard? Did the Government believe that there was a conflict between Islam and the international commitments it had undertaken, and if so, how did it intend to proceed? There had been accusations that the State party was imposing Islamic law on non-Muslim communities. What were the prospects for reaching a peace agreement to end the conflict in the south?

12. Mr. CEVILLE asked whether effect was given to the Covenant within the Sudanese legal system. The Government maintained that there was no incompatibility between international instruments and national legislation, including the Constitution. Was the Covenant directly applicable in the legal system, and could it be invoked directly by citizens? The 1997 concluding observations of the Human Rights Committee had referred to the lack of independence of the judicial branch. Had the 1998 Constitution rectified that situation? While the Chief Justice was appointed by the Supreme Council of the Judiciary, appointment was subject to the approval of the President of the Republic. Was that not a form of interference by the executive branch in the affairs of the judiciary?

13. Mr. ANTANOVICH welcomed the fact that so much economic development had taken place in the past 10 years. However, he perceived a disquieting gap between the country's economic development and the realization of human rights. For example, while the Government mentioned the recent development of petroleum exports as an encouraging sign, he had received reports that foreign companies developing oil resources had neglected investment in social services. Notwithstanding progress in the provision of health care and education, severe discrimination against women reportedly persisted. There were many abandoned children, a large proportion of whom were not Arabic speakers. To what extent was the Covenant taken into consideration in the Government's decision-making processes? Was the Covenant known to the public or discussed in the press? Were there any organized systems for the teaching of human rights at any level?

14. Mr. MARCHÁN ROMERO enquired about the reforms made to the legal system with the adoption of the 1998 Constitution, and asked what repercussions they had had on institutions monitoring and ensuring the follow-up of human rights violations in the Sudan. In the final analysis, it seemed that it was not the Human Rights Advisory Council which decided which right was involved or which law applied, but the National Assembly. If that were the case, it would be a form of interference in the work of a human rights monitoring body that should, by its very nature, be independent. The replies to the list of issues (HR/CESCR/NONE/2000/10) mentioned that in the event of a conflict between the Constitution and the Covenant, the National Assembly would have to amend the Constitution. Would a constitutional amendment be required in each case?

15. Mr. THAPALIA asked which law prevailed when human rights law and Islamic law conflicted. Were women entitled to bring cases to court in defence of their rights as set out in the Covenant, and, if so, had there been any such cases?

16. Mr. WIMER ZAMBRANO, noting that Islamic law applied only in the 16 northern states and not in the 10 states in the south, asked how the State party ensured that the two legal systems were compatible. When contradictions arose between the systems, what mechanisms were used to decide which standards to apply? In cases of mixed marriages between Muslims and non-Muslims in the north, would Islamic law apply? Were non-Arabic speakers afforded the opportunity to use their languages in court when they were brought to trial?

17. Mr. TEXIER, noting that the independence of the judiciary was a guarantee of all human rights, including those set forth in the Covenant, said that the Human Rights Committee had indicated in its concluding observations in 1997 that it was concerned about the independence, qualifications and representativeness of the judiciary. While it was heartening to learn of the adoption of the new Constitution, which in theory guaranteed the independence of the judiciary, what was the situation in practice? The Committee had raised the question of torture in the list of issues, referring specifically to an assertion by the United Nations Special Rapporteur on the question of torture that torture was a fairly extensive phenomenon in the Sudan. In its reply the State party had simply denied the allegation. Had the situation improved since the issuance of the Special Rapporteur's report?

18. Ms. JIMÉNEZ BUTRAGUEÑO asked whether the Constitutional Court had heard any cases yet, and requested clarification concerning the constitutional provisions relating to the effective prohibition of discrimination based on gender. Were such provisions explicit?

19. Mr. CEAUSU, emphasizing the importance of an independent judiciary for the realization of human rights and the functioning of democratic institutions, asked what guarantees existed for the independence of the Sudanese judiciary. Could judges who had been appointed to their posts for life be removed from office, and if so, by what authority and under what procedure? Were judges provided with sufficient remuneration to ensure that they would not be vulnerable to corruption?

20. Mr. PILLAY noted that despite the state of emergency in the Sudan, the Bill of Rights had not been suspended, and the human rights situation was apparently improving. While an article of the new Constitution specifically stated that judges should be independent, he wished to know whether they enjoyed security of tenure. Was there a special tribunal authorized to investigate misconduct on the part of judges and to dismiss them if misconduct was proven? The Constitution mentioned non-discrimination, but there seemed to be no prohibition of discrimination on the basis of political views, national or social origin or race. Cases of discrimination against Christians had been reported, including the harassment and arrest of Catholic priests. Was it true that Islamic law was applied to all residents of the northern states, regardless of their religion? According to the Special Rapporteur, women were subjected to corporal punishment and sexual abuse if they did not dress according to Muslim standards. What steps were being taken to ensure that the rights set out by the new Constitution were observed in practice?

21. Mr. IBRAHIM (Sudan) said that conditions in the Sudan were fully conducive to implementation of the Covenant. The country had undergone far-reaching change in the recent past, in particular with the adoption of the new Constitution. Since independence the Sudan had seen a wide variety of forms of government, and in connection with the drafting of the new

Constitution some 6,000 men and women from former governments, NGOs and the private sector had been invited to take part in deciding how best to ensure social and economic development and peace. The discussions had lasted over four and half months and resulted in a consensus on the new Constitution, which had been adopted by the National Assembly and approved by 96 per cent of the population in a referendum. The Constitution was the first in the country's history to include a Bill of Rights, which encompassed all the human rights guaranteed by international instruments to which the Sudan had acceded. The Constitution also instituted a Constitutional Court, intended to be accessible to ordinary people. The court was staffed by eminent jurists, many of whom had studied overseas, and had recently demonstrated its impartiality in a constitutional case involving a dispute between the President of the Republic and the Speaker of the National Assembly.

22. The new Constitution established a federal system, with a balance of power between the central administration and local government. Prior to drafting the Constitution, the Government had sent delegations to Australia, Canada, Germany, Malaysia, Nigeria and the United States of America to draw upon the experience of other federal States. The Government was making every effort to decentralize power and ensure genuine democracy, with participation in decision-making at all levels. The Constitution endorsed the peace agreement reached in April 1997, which represented a turning point for the country as it gave the right of self-determination to the people of the south. Unfortunately, of the seven armed groups operating in the south, one had refused to accept the agreement. The new Constitution provided for a division of wealth whereby the central Government would receive no more than 25 per cent of the revenue derived from natural resources, with the remainder divided among State and local authorities.

23. In 1995 the Government had decided to emphasize higher education as a human right. Having noted that the students who attended the country's five universities in Khartoum tended to remain in the capital, it had established universities in each state. One result was that women currently represented over half of the university students in the Sudan.

24. Mr. GADOUR (Sudan) said that the importance attached by the Sudanese people to non-discrimination was reflected in the 1998 Constitution, which included an article on equality. The Sudanese judicial system dated back some 100 years, and was protected against interference by the executive branch. The Constitution guaranteed the judiciary's independence, which it had further strengthened by setting up a Constitutional Court. The judiciary was not subordinated to the Government in any way. The judiciary also had its own budget.

25. Judges were appointed at the highest level, directly by the President, so as to ensure that they would not feel any obligation to those who appointed them. Judges could be removed from office only by the Supreme Council of the Judiciary, which was also responsible for the administration of the judiciary. Neither the police nor the prison system could influence the judicial branch. With the exception of certain provisions related to Islamic law, the laws applied by the Sudanese judiciary were similar to those applied in all other States. The application of Islamic law dated from 1983, and was limited in scope to certain matters such as the drinking of alcohol, or theft; provisions relating to murder or the protection of the individual were analogous to those in other countries. Under Islamic law, punishments were subject to guarantees, which had withstood the test of time. Islamic law applied only to Muslims.

26. Torture was not widespread in the Sudan. Only one incident had been investigated in recent times, and it had subsequently been ascertained that it had been reported for political reasons. Allegations of widespread torture were unfounded.

27. Ms. IMAM (Sudan) said that there was no discrimination against women in the Sudan, as could be seen by the fact that she was a member of an official delegation sent to introduce the country's report to the Committee. The Ministers of Health and Labour were both women, as were many members of the National Assembly. Women were also represented in the judiciary, including the Constitutional Court.

28. Mr. YASSIR (Sudan) said that increased emphasis had recently been placed on the rights enunciated in the international human rights instruments to which the Sudan had acceded. The Sudanese people had a long tradition of tolerance and respect for human rights. The State had given form to such rights through the adoption of a number of legislative and constitutional provisions. A very large number of articles of the Constitution were specifically devoted to human rights.

29. The establishment of the Human Rights Advisory Council, a high-level body entrusted with the task of counselling the Government on human rights issues, testified to the importance attached to the implementation of such rights by the State. The Council included both Government and non-governmental bodies, including the bar association and human rights organizations. Since 1994 it had extended invitations to United Nations special rapporteurs, members of the African Commission on Human and Peoples' Rights and representatives of Africa Watch, Anti-Slavery International and Amnesty International. The Council also supervised the drawing up of the Sudan's reports to the various international human rights bodies, and brought national legislation into line with standards of international law as set out in the treaties ratified by the Government. It had been very active in combating trafficking in women and girls, with the assistance in particular of UNICEF and various NGOs. While the State provided the Council with a budget, it lacked sufficient resources, especially for communications, transport, and staff training. International assistance was required.

30. Mr. SIDDIG (Sudan) said that Sudanese legislation derived from a number of sources, including Islamic law, tradition and political consensus among the Sudanese people. All religions attached importance to the dignity of the human being, and respect for human rights had existed long before the adoption of the Covenant and other human rights instruments. Coexistence of various religions was well established. In a single family, one might thus find followers of traditional African religions together with Christians and Muslims. The conflict in the south was not a religious war, but rather a conflict stemming from economic and political factors. The Sudanese in the northern part of the country were predominantly Muslim, and had chosen to apply Islamic law, as was their right. Non-Muslims were not subject to the provisions of Islamic law. In any event Islamic law did not apply throughout the country, but only in those States where Muslims were in the majority

31. There was no apparent conflict between the Covenant and Islamic law. However, if any cases of conflict between Sudanese legislation and international treaties were to arise, the National Assembly would bring national law into line with the international instrument.

32. Mr. IBRAHIM (Sudan) said that in the southern Sudan there were some 500 tribes which spoke over 100 languages, and that even among those groups speaking languages other than Arabic the lingua franca was often an informal form of Arabic. In approximately 97 per cent of cases, disputes were settled out of court under a very developed system of informal adjudication. If the dispute involved persons from two tribes, interpretation would be provided. As for cases that were brought to court, an interpreter was always provided if a participant needed one. In schools and universities, examinations could always be taken either in English or in Arabic.

33. Mr. TALIB (Sudan) said that NGOs raising human rights concerns had presented a distorted view of the effects of oil production in the Sudan. The main oilfields were in the western part of the country, which was very sparsely populated. There was hardly any local population, and the only local economic activity was seasonal, as livestock herds were brought in to graze for three months of the year. Claims that inhabitants had been displaced were unfounded. Oil extraction had led to an influx of workers and the provision of free electricity, drinking water, schools and other services, including roads and bridges that made the region accessible even in the rainy season. A well-equipped hospital established by the oil companies provided medicines to local residents free of charge. In the Government's view, the development of oil production could make a significant contribution to the peace process, as it would give a means of subsistence to people who would otherwise lack any prospects. The Government had invited Anti-Slavery International and Amnesty International to visit the region in question to see for themselves. Modernization through development would permit all Sudanese citizens to enjoy economic, social and cultural rights.

34. Mr. CEVILLE said that while the Constitution was a valuable instrument because of the principles it set forth, the application in practice of such principles was a very important factor. Noting that it was the President of the Republic, head of the executive branch, who appointed the head of the judiciary, he asked how that ensured observance of the independence of the judiciary.

35. Mr. YASSIR (Sudan) said that the Constitution differentiated between the nomination of judges and the administration of the judicial branch. Judges were selected by the Supreme Council of the Judiciary on the basis of their competence, and their names were submitted to the President for approval. They were appointed for life, and could be removed only in the event of serious error. The Supreme Council of the Judiciary, composed entirely of judges, heard such cases. Judges received the highest salaries of any State employees.

36. Mr. GADOUR (Sudan) said that in the Sudan, as in all States, the President was a symbol representing the power of the State. The role played by the President in the appointment of judges was limited to protocol, whereas the actual selection of judges was made by the Supreme Council of the Judiciary.

The meeting rose at 1 p.m.